

Lore of the Corps

The Army Lawyer: A History

Fred L. Borch

Regimental Historian & Archivist

When The Judge Advocate General's School (TJAGSA) opened in Charlottesville in 1951, and the first Advanced Class (today's Graduate Class) arrived later that year, it was only natural that the faculty would look for ways to enhance legal research and writing. As a result, the *Military Law Review* began publishing in 1958 and, for more than fifty-five years now, that legal periodical has contained in-depth, comprehensive, analytical articles akin to those published in other law school journals in the United States.

The Army Lawyer, which began publishing in August 1971, originated for very different reasons and, with this 500th issue, it is now appropriate to examine its history and its impact on our Corps. This *Lore of the Corps* looks first at the origins of *The Army Lawyer*. It then looks the evolution of the monthly periodical from the 1970s to the present, and identifies some of the men and women who have edited, formatted and produced it through the years. Finally, this article offers some thoughts on the future of *The Army Lawyer*.

The first issue of *The Army Lawyer* announced why it was being created as "a monthly publication" of TJAGSA:

Its purpose is to provide practical, how-to-do-it information to Army lawyers. Thus, *The Army Lawyer* will fill the gap between the *Judge Advocate Legal Service*¹ and the *Military Law Review*, and at the same time consolidate other publications in a single, convenient source. *The Army Lawyer* replaces, in part, the Procurement Legal Service, the *Legal Assistance Bulletin*, the *PP&TO Newsletter*, the *Claims Administrative Newsletters*, and the non-case materials of JALS, except those of interest to reservists and those which must have immediate distribution to the field.²

¹ Published between March 1959 and November 1975, the *Judge Advocate Legal Service* (JALS) was initially published on a weekly basis provide field Judge Advocates with the latest appellate decisions from the Court of Military Appeals (the forerunner of the Court of Appeals of the Armed Forces) and the Comptroller General. In the 1960s, JALS expanded its content to contain other information of interest to Army lawyers, including information on claims, procurement, international law and military affairs. After the creation of *The Army Lawyer*, however, JALS limited its content to military criminal law. It ceased publication in 1975.

² ARMY. LAW., Aug. 1971, at 1.

In short, *The Army Lawyer* was going to be practical and informative, and it was going to consolidate the many existing newsletters produced throughout the Corps so that judge advocates would need look only at one source for the latest best legal practices. In fact, this first issue announced that future issues would contain "comments on recent developments in the law and provide a forum for short articles from the field." It would also "carry items of current general interest to Army lawyers."³

But there was more to *The Army Lawyer's* origins than what appeared in the printed text of Volume 1, Number 1. As Colonel (Retired) John Jay Douglass remembers, there were a number of other important reasons to create a monthly legal periodical—the chief one being that no one in the Corps really knew what TJAGSA had to offer in the way of education and training. This was particularly true for the many hundreds of Reservists in the Corps who, as Douglass puts it, "really had no contact with the active duty guys."⁴



Colonel John Jay Douglass, who served as Commandant, The Judge Advocate General's School, from 1970 to 1974, played a major role in the creation of *The Army Lawyer*.

Why would Douglass be concerned with the Reserve legal community? The answer was simple. The year before he assumed duties as Commandant in 1970, The Judge Advocate General's Office (or "JAGO" as it was called in everyday conversation) "had transferred all the JAG Reservist responsibilities to the School." This meant that it was now COL Douglass' responsibility to keep in contact with Reserve judge advocates and he saw that publishing a monthly journal that was distributed to them

³ *Id.*

⁴ Telephone interview, author with Colonel (Retired) John J. Douglass (8 Dec. 2014) (on file with author).



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by mail would be a way to accomplish this goal. In the 1970s, virtually all wide-spread communication in the Army was by written letter or other printed publication—delivered by the U.S. post office—so this concept makes sense.

While Douglass says that this desire to have contact with the Reserve judge advocate community was a major impetus behind the creation of *The Army Lawyer*, he also identifies a second important reason: active component judge advocates really did not understand what TJAGSA did, or what it offered in the way of legal education and training, and this ignorance meant the School was both underutilized and underappreciated.

This state of affairs existed because while every lawyer who entered the Corps was required to attend the Judge Advocate Officer Basic Course, there was no requirement to attend the Advanced Course—or any other instruction being offered in the way of shorter courses. Additionally, since more than a few successful senior officers—including Major Generals George S. Prugh and Harold E. Parker, then serving as The Judge Advocate General and The Assistant Judge Advocate General, respectively—had never attended either the Basic or Advanced Courses, Douglass discovered that there was considerable resistance to coming to TJAGSA for a year of graduate legal education from senior captains and majors who intended to make the Corps a career. As they reasoned, why should a young officer uproot his family for a year at TJAGSA if that was not necessary to reach flag rank. But, thought Douglass, a monthly publication would showcase the short course offerings at TJAGSA and, as uniformed attorneys came to Charlottesville for a week (for example) of procurement law instruction, might encourage these Army lawyers to attend the Advanced Course when offered the opportunity.

Colonel Douglass' goal—which he said repeatedly to all within earshot—was to make TJAGSA “The Home of the Army Lawyer.” Every judge advocate, in his view, must believe that he must come to Charlottesville to be successful in the Corps. Consequently, when it came time to select a name for the new monthly publication, it was logical for it to be christened *The Army Lawyer*.

When the first issue was published in August 1971, it contained reports on the new “Pilot Legal Assistance Program” in New Jersey (where Judge Advocates, with

the approval of the New Jersey State Bar Association, provided in-court representation in civil matters for soldiers in the grades of E-4 and below) and from the Army Trial Judiciary (court-martial statistics, and recurring errors and irregularities). There was an article from the Army Claims Service titled “Suggestions for a Successful Recovery Program” and from the Litigation Division on various pending cases and decisions of interest. The School's Procurement Law Division (today's Contract and Fiscal Law Division) discussed recent decisions from the Court of Claims and Board of Contract Appeals. On a truly practical level, the Legal Assistance Division at the Office of The Judge Advocate General (OTJAG) offered tips on “telephone etiquette” that should be observed by those answering calls coming to a legal assistance office in the field. Helpful advice included refraining from telling the caller that the judge advocate with whom he wished to speak was “out playing golf” or had “left early.” Finally, there was a brief article written by a civilian attorney at Third U.S. Army, Fort McPherson, Georgia. It focused on the legal issues arising in a court-martial of a Marine Corps Reservist who willfully disobeyed the order of his superior commissioned officer to get a haircut and who rejected Article 15 punishment in favor of trial by court-martial.

This inaugural issue of *The Army Lawyer* finished with sections called “Personnel Actions,” “Books of Interest to Lawyers,” and “Military Affairs Opinions.” The first, provided by the Personnel, Plans and Training Office, OTJAG, was almost certainly the first section read by those who received the new publication because it contained the names of those officers and warrant officers who were retiring from active duty or being promoted. It also contained a list of all upcoming assignments of colonels, lieutenant colonels, majors, captains, lieutenants, and warrant officers. As for the second section, this listed books of professional interest to lawyers, such as Anthony Lewis' *Gideon's Trumpet* (about the celebrated *Gideon v. Wainwright* decision) and Catherine Bowen's *Yankee from Olympus* (about Supreme Court Justice Oliver W. Holmes). Finally, the last section contained opinions from OTJAG's Military Affairs Division (today's Administrative Law Division). With a view toward practicality, these opinions were printed in *The Army Lawyer* in a 3-inch-by-5-inch format, so that a reader could “clip” and paste them on 3 x 5 cards and so build a card reference library. The opinions covered civilian pursuits by retired officers, the privileges enjoyed by

children of remarried and divorced Army widows, whether “bowling score sheets” could be accepted as gifts by a military bowling lane located on a military reservation, and whether military personnel could carry concealed weapons while off-duty.

By the time it was in its second year of publication, *The Army Lawyer* had expanded to include new features in addition to articles, reports and practical legal information. The Personnel Section began listing the names of all judge advocates receiving military awards, information on volunteering for overseas assignments, policies on attending civil schools at Government expense, and job openings for “DA Civilian Attorney Positions.”⁵ There was a new section called “JAG School Notes” which provided information on staff and faculty at TJAGSA and even solicited readers to contribute to a newly formed “beer mug collection to be displayed in the [TJAGSA] Open Mess.”⁶ Finally, a section called “Bar Notes” announced upcoming American Bar Association, Federal Bar Association, and Judge Advocate Association news items.⁷

Starting in November 1971, *The Army Lawyer* began publishing the schedule of courses offered at TJAGSA, along with “scopenotes” for these offerings—thereby fulfilling COL Douglass’ goal of letting Judge Advocates in the field know what was available in the way of legal education. Courses listed included the 62d Basic Course, 20th Advanced Course, 2d Staff Judge Advocate Course, 1st Legal Assistance Course and 5th Law of Federal Employment Course.⁸ *The Army Lawyer* continued to list available courses in the 1980s, 1990s, and 2000s; today readers interested in Continuing Legal Education (CLE) offerings are directed to the “Legal Center and School” website for a schedule of courses.

In the early 1980s, the content of *The Army Lawyer* began evolving toward what might be called a “mini-law review” in that information on personnel (promotions, reassignments, school selection, and awards) and other similar non-legal news items were no longer carried. The last PP&TO section, for example, appeared in February 1982. Apparently this occurred because the Army Publications and Printing Command changed its policy on what could be published in a Department of the Army Pamphlet (DA Pam) and informed TJAGSA that non-legal items were no longer permissible. Since *The Army Lawyer* had become a DA Pam in March 1973, it had to follow this new guidance—which meant the end of information on promotions, awards, reassignments and

similar items.⁹ This prohibition, however, does not seemed to have prevented the occasional insert of information from PP&TO; the January 1994 *The Army Lawyer* contained an announcement on the importance of official photographs for promotions and information on filing “commendatory matters” in the Official Military Personnel File.¹⁰

From the 1990s to the present, *The Army Lawyer*’s content has been relatively stable, with a number of notable exceptions. First, beginning in the 1990s, the editors began devoting entire issues to one topic. As a result, there were special issues devoted to contract and fiscal law¹¹ and criminal law,¹² usually on an annual basis. *The Army Lawyer* also began publishing “TJAGSA Practice Notes” in which faculty members from all the teaching departments provided short articles on current developments in the law. In November 1997, for example, ‘practice notes’ included information on the application of the Major Fraud Act to government contracts and the Taxpayer Relief Act of 1997.¹³ The following month contained ‘practice notes’ on the Child Support Recovery Act and the Uniformed Services Employment and Reemployment Rights Act.¹⁴

Second, starting with the October 2004 issue, the editors began publishing book reviews. Written mostly by Graduate Course students as part of their writing curriculum, these now appear in virtually every issue.

Third, at the suggestion of then Captain Ronald P. “Ron” Alcala, who was editing *The Army Lawyer* in 2010, a monthly history feature called the “Lore of the Corps” began appearing as the lead article. Two to four pages in length, and covering a variety of topics (courts-martial, personalities, war crimes and general history), these have been a regular monthly feature for nearly five years. Alcala’s other adopted suggestion was a newly designed blue-and-gold colored cover for *The Army Lawyer*, featuring the Regimental crest. The new cover first appeared in December 2010.

⁹ As a result, this information was not officially available, although individual members of the Corps routinely prepared unofficial assignment lists through the years. Additionally, *The Regimental Reporter*, the newsletter of the TJAGSA Alumni Association, usually published lists of assignments when these became known. Not until the Corps created an electronic newsletter called the *Quill and Sword* did assignment lists once again become officially available.

¹⁰ *Personnel, Plans and Training Office Notes*, ARMY LAW., Jan. 1994, at 44.

¹¹ E.g., *Contract Law Developments of 1996—The Year in Review*, ARMY LAW., Jan. 1997; *Contract and Fiscal Law Developments of 2006—The Year in Review*, ARMY LAW., Jan. 2007.

¹² E.g., *50th Anniversary of the UCMJ Series*, ARMY LAW., July 2000; *Military Justice Symposium I*, ARMY LAW., May 2004, *Military Justice Symposium II*, ARMY LAW., July 2004.

¹³ *TJAGSA Practice Notes*, ARMY LAW., Nov. 1997, at 31–44.

¹⁴ *TJAGSA Practice Notes*, ARMY LAW., Dec. 1997, at 26–34.

⁵ ARMY LAW., Sept. 1972, at 30.

⁶ *Id.* at 27.

⁷ ARMY LAW., OCT. 1972, at 26.

⁸ ARMY LAW., Nov. 1971, at 24–25.

From its inception in 1972 until the present, a number of judge advocates have served as editors of *The Army Lawyer*. The first to serve were Captains (CPT) Stephen L. Buescher (editor) and Donald N. Zillman (articles editor). They were followed by the following *primary* editors:¹⁵ CPT Paul F. Hill (October 1973 through November 1975); CPT Charles P. Goforth, Jr. (December 1975 through August 1978); Major (MAJ) Percival D. Park (September 1978); CPT Frank G. Brunson, Jr. (October 1978 through September 1980); CPT Connie S. Faulkner (October 1980 through May 1982); CPT Stephen J. Kaczynski (June 1982 through August 1983); CPT Debra L. Boudreau (September 1983 through July 1985); CPT David R. Getz (August 1985 through March 1988); MAJ Thomas J. Feeney (April 1988 through June 1988); CPT Matthew E. Winter (July 1988 through August 1990); CPT Daniel P. Shaver (September 1990 through May 1993); CPT John B. Jones, Jr. (June 1993 through August 1995); CPT John B. Wells (September 1995 through August 1996); CPT Albert R. Veldhuyzen (September 1996 through June 1998); CPT Scott B. Murray (July 1998); CPT Mary J. Bradley (August 1998 through September 1998); CPT Kenneth D. Chason (October 1998 through June 1999); CPT Mary J. Bradley (July 1999 through August 1999); CPT Drew A. Swank (September 1999 through July 2000); CPT Todd S. Milliard (August 2000 through November 2000); CPT Gary P. Corn (December 2000 through July 2001); CPT Todd S. Milliard (August 2001 through October 2001); CPT Erik L. Christiansen (November 2001 through August 2002); CPT Joshua B. Stanton (October 2002 through August 2003); CPT Heather B. Fagan (September 2003 through May 2004); CPT Anita J. Fitch (June 2004 through February 2007); CPT Alison M. Tulud (March 2007 through August 2009); CPT Ronald T. P. Alcala (September 2009 through November 2010); CPT Madeline Yanford (later Gorini) (December 2010 through May 2011); CPT Joseph D. Wilkinson II (June 2011 through May 2012); CPT Takashi Kagawa (June 2012 through June 2013); CPT Marcia Reyes Steward (July 2013 through August 2014); and CPT Michelle E. Borgnino (September 2014 to present).

Of all these editors, two deserve additional mention: MAJ Matthew E. “Matt” Winter and CPT John B. Jones, Jr. This is because both received “Army Editor of the Year” honors for their work on *The Army Lawyer*. In a Pentagon ceremony on 15 November 1990, Secretary of the Army Michael P. W. Stone presented Winter with his award. The citation for the award noted that MAJ Winter made *The Army Lawyer* “easier to read, understand and

use.” Secretary Stone also noted that Winter’s initiatives while editor had “broadened the scope of legal subjects covered . . . encouraged submission of articles . . . eliminated printing errors, and substantially cut the production cycle” of the monthly periodical.¹⁶

Four years later, on 10 November 1994, Secretary of the Army Togo D. West, Jr., himself a former member of the Corps, presented Captain John B. Jones, Jr. with the award. According to the citation for Jones’ award, he had prepared “approximately 3750 pages of manuscript for twelve issues” and “moved up the production cycle thirty days to ensure that *The Army Lawyer* was published and distributed by its cover date.”¹⁷

While these editors had overall responsibility for producing the monthly periodical, they could not have accomplished their work without the support of administrative assistants. Initially, Mrs. Helena Daidone and Miss Dorothy “Dottie” Gross, both long-time civilian employees at TJAGSA, provided administrative support to *The Army Lawyer* editors. Miss Gross left the position for another job in TJAGSA after a short period, but Mrs. Daidone continued to support *The Army Lawyer*’s editors through the August 1979 issue.

A new Administrative Assistant, Ms. Eva F. Skinner, came on board in November 1979. She had been an employee in TJAGSA’s Academic Department (today’s Office of the Dean) since August 1973 but transferred to the Developments, Doctrine and Literature Department (or “DDL” as it was known colloquially) to become an “Editorial Assistant.” Since DDL oversaw the production both *The Army Lawyer* and *The Military Law Review*, Skinner began supporting the editors of both publications. When she retired in January 1995, Ms. Skinner had “trained fifteen different editors and coordinated the production of . . . 200 issues of *The Army Lawyer*.”¹⁸

Charles J. “Chuck” Strong replaced Skinner as “Editorial Assistant” in November 1995. His recent retirement as “Technical Editor”¹⁹ in January 2015 means that *The Army Lawyer* will be without administrative support for the near future.

¹⁵ This Lore of the Corps lists only *primary* editors as, on occasion, the masthead of *The Army Lawyer* lists “assistant editors.” For example, CPT Jennifer Crawford is listed as an assistant editor for the November 2004 through May 2005 issues; CPT Colette E. Kitchel is listed as an assistant editor for the July 2005 through March 2007 issues. The March 2007 issue shows CPT Alison M. Tulud as the editor, with now MAJ Anita J. Fitch and CPT Colette E. Kitchel as assistant editors. Similarly, the August 2009 *The Army Lawyer* shows MAJ Tulud as editor with MAJ Ann B. Ching and CPT Ronald T. P. Alcala as assistant editors.

¹⁶ *Major Winter Selected Army Editor of the Year*, THE REGIMENTAL REPORTER, Spring 1991, at 4.

¹⁷ *Captain Jones Selected Army Editor of the Year*, THE REGIMENTAL REPORTER, Spring 1995, at 8.

¹⁸ *Eva Skinner Retires After Lifetime of Service*, THE REGIMENTAL REPORTER, Spring 1995, at 10.

¹⁹ The position was upgraded and renamed “Technical Editor” in January 2000, chiefly because the job had expanded to require the incumbent to use new electronic software in formatting both *The Army Lawyer* and the *Military Law Review* for publication. Additionally, the Technical Editor now was required to ensure that all legal citations followed the uniform system contained in Harvard Law School’s *The Bluebook: A Uniform System of Citation*.

When one compares today's *The Army Lawyer* to the inaugural issue, it is clear that the content of the periodical has changed considerably. Certainly the original intent to have a practical, how-to-do-it periodical that would also trumpet TJAGSA's educational offerings in Charlottesville has given way to a more scholarly journal.

One sometimes hears the complaint that *The Army Lawyer* is just a smaller version of *The Military Law Review*. When one considers, however, that the former contains a much greater variety of articles than the latter, and that many of the authors writing for *The Army Lawyer* are seeking to provide helpful guidance to the practitioner in the field, this is not a criticism that should be taken too seriously.

As for the future? There seems little doubt that *The Army Lawyer* will continue to be published on a monthly basis, although the number of print copies will certainly decrease over time as the Army—and the Corps—moves increasingly to electronic only publishing. In fact, the online version of *The Army Lawyer* (posted on www.jagcnet.army.mil) already appears weeks before the print version is available. But, as long as *The Army Lawyer* is offered by the Government Printing Office as an “individual paid subscription”—currently priced at \$50 per year—it would seem likely that a print version will remain in existence.

The Army Lawyer, like its sister, the *Military Law Review*, is part of the Army JAG Corps' “brand.” When readers see it, they have no doubt that it is connected to lawyering in the Army and to legal education at the only American Bar Association accredited military law school in the world.